

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4006 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
Nos. 1 to 5 No.

SHANTU ALIAS SHANTILAL

NAROTTAMBHAI PATEL

Versus

COMMISSIONER OF POLICE

Appearance:

MR ANIL S DAVE for Petitioner

MR.NEEGAM SHUKLA,AGP for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 6.5.1996 passed by the Police Commissioner, Surat City detaining the petitioner under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 6.5.1996 itself and since then the petitioner is under detention lodged at Junagadh Jail, Junagadh.

The present Special Civil Application was filed in this Court on 12.6.1996 and on 13.6.1996 Rule returnable for 28.6.1996 was issued. So far neither any reply has been filed nor the Detaining Authority has filed any affidavit.

The grounds enclosed with the detention order show that 4 criminal cases under Prohibition Act were registered against the petitioner. Besides this the Detaining Authority has taken note of the statements made by three witnesses against the petitioner's antisocial activities. The petitioner has been detained as bootlegger for doing the unauthorised business of liquor.

In view of the reasons given in the judgment dated 4.10.1996 in Special Civil Application No. 3879 of 1996 it is clear that the allegation and material relied upon by the Detaining Authority against the petitioner do not constitute the case of breach of public order and at the most it can be said to be a case of breach of law and order. The detention order therefore deserves to be set aside on this ground alone.

Accordingly this Special Civil Application is allowed. The impugned detention order dated 6.5.1996 passed by the Police Commissioner, Surat is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith if not required in any other case. Rule is made absolute.
